

## LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

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**P.A.S.:** Miscellaneous 02001

**DATE:** February 20, 2002

**PROPOSAL:** To amend Lincoln Municipal Code (LMC) Section 26.11.039 regarding the installation of minimum subdivision improvements.

**RECOMMENDATION:**

Approval

### **GENERAL INFORMATION:**

**APPLICANT:** Kathleen A. Sellman, AICP  
Director of Planning  
555 S. 10<sup>th</sup> Street, Room 213

**CONTACT:** Brian Will  
Planning Department  
555 S. 10<sup>th</sup> Street, Room 213  
(402)441-6362

**PROPOSED TEXT CHANGES:** Attached.

### **BACKGROUND**

LMC Section 26.11.039 allows minimum improvements associated with a final plat to either be installed prior to approval of the plat, or for adequate surety to be furnished. If a surety is to be provided, it can be submitted with the application for final plat. If it is not provided at that time, an amount for the cost of improvements will be estimated based upon the information provided with the final plat, and this amount will be included in the resolution as a condition of approval of the plat.

Any surety submitted must be approved by the Law Department and be in an amount sufficient to guarantee that the improvements can be constructed. However, there are cases where the amount of the surety varies from that stated in the resolution approving the plat. This is due to the fact that the costs of improvements are now based upon actual construction drawings, versus the more general information initially submitted with the final plat.

After approval by the Law Department, acceptance of the surety is done by an executive order signed by the Mayor. It also grants authorization to proceed with the construction of improvements.

Currently, the Land Subdivision Ordinance does not specifically state that the executive order is an acceptable method of guaranteeing installation of improvements.

**ANALYSIS:**

1. LMC allows for improvements to be installed prior to approval of the final plat, or with an approved surety in an amount sufficient to guarantee installation of the improvements. This amendment revises Section 26.11.039 to also allow an approved executive order to also serve as evidence of adequate surety.
2. This amendment acknowledges that the surety for the installation of required improvements may not be submitted with the application for final plat, and that when costs are calculated using actual construction drawings they may be different than the estimates developed during the review of the plat. This amendment merely codifies the fact that a signed executive order approving a surety is also acceptable evidence that adequate funds are reserved to guarantee the installation of improvements, and that it supercedes the approved resolution and any costs contained therein.

Prepared by:

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Brian Will, AICP  
Planner

## ORDINANCE NO. \_\_\_\_\_

1 AN ORDINANCE amending Section 26.11.039 of the Lincoln Municipal Code to  
2 add an additional method to guarantee installation of improvements within a final plat; and  
3 repealing Section 26.11.039 of the Lincoln Municipal Code as hitherto existing.

4 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

5 Section 1. That Section 26.11.039 of the Lincoln Municipal Code be amended to  
6 read as follows:

7 **26.11.039 Requisites for Final Plat Approval.**

8 Before any final plat may be approved, provisions for the installation of the minimum  
9 improvements set out in Chapter 26.27 shall be made in one of the following manners:

10 (a) Improvements have been installed and approved. This is the only method avail-  
11 able for community wastewater systems and community water systems.

12 (b) Petitions for assessment districts and if necessary formal petitions with required  
13 signatures, have been filed with the Planning Director. Such assessment districts may be created  
14 for public improvements within the corporate limits of the city at the sole option of the city, and  
15 shall be used for only the completion of street paving, public water systems, public wastewater  
16 systems, and street lighting. Provided, however, the approved final plat shall not be recorded in  
17 the office of the Register of Deeds until the city has created all such petitioned assessment  
18 districts.

19 (c) A bond, escrow, or security agreement approved by the City Law Department has  
20 been furnished in an amount sufficient to guarantee the installation of the required improvements

1 or an executive order has been issued by the Mayor authorizing the construction of the  
2 improvements.

3 (d) An agreement is signed by the subdivider guaranteeing that the improvement is  
4 completed within a time specified by the city. However, this alternative is available only for  
5 individual wastewater systems, individual water well systems, and the completion of land  
6 preparation.

7 Prior to the approval of the final plat, the appropriate city department shall estimate the  
8 cost of completing the improvements. The amount of the bonds or escrow or security agreement  
9 shall be established by the city and may be increased or decreased according to current  
10 conditions. If the amount of the bond or escrow or security agreement is less than the actual cost  
11 of the installation of the improvements, the subdivider shall be responsible for the payment of any  
12 such additional costs of the improvements. No surety bond or other security shall be accepted  
13 unless:

14 (1) It is enforceable by or payable to the city;

15 (2) It provides that any extension of time, change, alteration, or addition, which  
16 may be approved by the city for construction or completion of the improvement for which the bond  
17 is given, shall in no manner affect or relieve the obligation of the surety, regardless of whether  
18 or not the surety is given notice of any such extension of time, change, alteration, or addition;

19 (3) It cannot be terminated without written authorization of the Mayor;

20 (4) It is written by a corporate surety company authorized to do business in the  
21 State of Nebraska, or approved security deposits have been made to an institution licensed to  
22 do business in the State of Nebraska; and

23 (5) It is a form with surety and conditions approved by the City Attorney.

1                   Section 2. That Section 26.11.039 of the Lincoln Municipal Code as hitherto  
2 existing be and the same is hereby repealed.

3                   Section 3. That this ordinance shall take effect and be in force from and after its  
4 passage and publication according to law.

Introduced by:

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Approved as to Form & Legality:

\_\_\_\_\_  
City Attorney

Staff Review Completed:

\_\_\_\_\_  
Administrative Assistant

Approved this \_\_\_\_ day of \_\_\_\_\_,  
2002:

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\_\_\_\_\_  
Mayor